

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TAKEISKA RANDOLPH,

Plaintiff,

v.

FAMILY DOLLAR STORES OF
GEORGIA, LLC., DOLLAR TREE
STORES, INC.,
AND JOHN DOES 1-3,

Defendant.

Civil Action
File No.:

PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the Northern
District of Georgia, Atlanta Division

COME NOW Defendants, Family Dollar Stores of Georgia, LLC and Dollar
Tree Stores, Inc., by and through their undersigned counsel, and file their Petition for
Removal and respectfully show this Court the following:

1. A civil action has been filed and is now pending in the State Court of
Gwinnett County, State of Georgia designated as Civil Action File No. 23-C-03369-
S6.

2. The Summons and Complaint in that action were filed in the State Court of Gwinnett County on May 17, 2023. Family Dollar Stores of Georgia, LLC and Dollar Tree Stores, Inc. were served on May 18, 2023. Thus, they timely file this Petition for Removal.

3. Defendants file herewith a copy of all process, pleadings, and orders including the Summons and Complaint in this action, pursuant to 28 USC § 1446. (Attached hereto as Exhibit “A”).

4. Defendant Dollar Tree is now, was at the commencement of this suit, and at all times since been a corporation organized and existing under the laws of the State of Virginia with its principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia, 23320. Thus, Defendant is not a citizen of the State in which the State Court action is brought.

5. Family Dollar Stores of Georgia, LLC, is a foreign limited liability company, which has a single member – Family Dollar Stores, Inc, a foreign corporation formed under the laws of the State of Delaware and has its principal place of business in the State of Virginia. Thus, Family Dollar Stores of Georgia, LLC, is a citizen of the States of Delaware and Virginia. Defendant was at the commencement of this suit, and at all times since been a corporation organized and existing under the

laws of the State of Virginia, with its principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia, 23320.

6. Plaintiff, Takeiska Randolph, is a citizen of Georgia. Thus, there is complete diversity among the parties.

7. In addition to establishing diversity of citizenship amongst the parties, the removing party must also prove that the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

8. Ms. Randolph's Complaint for Damages alleges that she slipped and fell on May 22, 2022, sustaining injuries. [Compl. ¶¶ 6, 11]. Specifically, she claims she incurred medical expenses in excess of \$57,985.37. [Compl. ¶¶ 20, 29, 40]. Ms. Randolph is also claiming that as a result of this fall, she is entitled to general damages, for past, present, and future pain and suffering and loss of enjoyment of life in amounts to be determined at trial. [Compl. ¶¶ 20, 29, 40]. Additionally, Ms. Randolph's Complaint for Damages included an indeterminate lost wages amount and pre and post judgment interest as allowed by law, attorney's fees, costs, expenses pursuant to O.C.G.A. § 13-6-11. [Compl. ¶¶ 20, 21].

Ms. Randolph also provided a pre-suit settlement demand of \$1,000,000.00, where she provided over 200 pages of medical records in support of this demand. (Attached hereto as Exhibit "B" is a copy of the demand letter without exhibits). See,

Bankhead v. Am. Suzuki Motor Corp., 529 F. Supp. 2d 1329, 1333 (M.D. Ala. 2008) (citing to Lowery, 483 F.3d at 1212 n.62). In Ms. Randolph's demand, she alleged that she slipped on said dog feces, falling on her face and causing her serious injuries. Further, MRI testing revealed that Ms. Randolph sustained herniated and disrupted discs in her cervical and lumbar spine, thus necessitating her being referred for more advanced medical supervision. From there, she was prescribed medications, and received several sets of cervical epidural steroid injections. Furthermore, Ms. Randolph's pre-suit settlement demand that additional injections and/or surgical correction has not yet been ruled out.

9. In Harris v. Bloomin' Brands, Inc., 1:18-cv-05078-ELR (N.D. Ga. 2019), Judge Ross found that the amount in controversy exceeded the \$75,000 jurisdictional minimum even though the plaintiff only alleged \$10,985.75 in incurred medical expenses. There the plaintiff alleged she sustained serious injuries to her spine, back, neck, and left knee, and that she will require future medical treatments including injections and that she suffers a reduced earning capacity and permanent impairment.

Another recent case is the case of Johnson v. Blackburn, 2:16-CV-989-KOB, 2016 WL 5816114, at *2 (N.D. Ala. Oct. 5, 2016). There the plaintiff alleged he suffered severe injuries to his head, neck, and back. Based on the plaintiff's allegations,

the District Court in Johnson found that using judicial experience and common sense, it could infer that the complaint meets federal jurisdictional requirements. Id.

Here, similar to the Plaintiff in Harris, Ms. Randolph alleges that she was seriously injured as a result of the alleged incident. Ms. Randolph's medical expenses almost triples the plaintiff in Harris. These allegations are similar to the allegations in both Harris and Johnson. Accordingly, based on these similarities to these recent cases, it is clear that the jurisdictional minimum is met here.

10. Therefore, the action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Defendant pursuant to the provisions of 28 U. S. C. §§ 1332, 1367, and 1441 et seq., in that there is complete diversity among the parties and the Defendant is not a resident of the State of Georgia, the Parties are not residents of the same state, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

11. This action is currently pending in the State Court of Gwinnett County, Georgia, which is within the jurisdiction of the Northern District of Georgia, Atlanta Division. 28 U.S.C.A. § 1446(a).

12. A copy of the answers filed by the Defendants in State Court is attached hereto as Exhibit "C."

13. Defendants attached a copy of Defendants' Notice of Removal that will be filed in the State Court of Gwinnett County, Georgia marked as Exhibit "D."

WHEREFORE the Defendants pray the above action now pending before the State Court of Gwinnett County, Georgia be removed to this Court's jurisdiction.

This 7th day of June 2023.

Goodman McGuffey LLP
Attorneys for Family Dollar Stores of Georgia,
LLC and Dollar Tree Stores, Inc.

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CERTIFICATE OF SERVICE

This is to certify that I electronically filed this **Defendants' Petition for Removal** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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This 7th day of June 2023.

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